



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,461	12/21/2001	John A. Dispenza	129250-001049/US	5477

32498 7590 07/14/2008  
CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC  
P.O. BOX 1995  
VIENNA, VA 22183

EXAMINER
----------

LIN, KUANG Y

ART UNIT	PAPER NUMBER
----------	--------------

1793

MAIL DATE	DELIVERY MODE
-----------	---------------

07/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/029,461	<b>Applicant(s)</b> DISPENZA ET AL.	
	<b>Examiner</b> Kuang Y. Lin	<b>Art Unit</b> 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/29/02</u> .   | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 1793

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,344,477 to Miki et al. and further in view of US 5,040,589 to Bradley et al.

Miki et al. substantially show (see, col. 1, lines 24-35) the invention as claimed except that they do not show to rheocast Mg alloy to unite the conductive core object. However, it is a common knowledge that Mg alloy possesses high thermal conductivity, it would have been obvious to use Mg alloy as a cast material for forming the fins of the heat exchanger of Miki et al. Further, Bradley et al. show that it is desirable to rheocast Mg alloy, instead of die casting of molten Mg alloy, such that to reduce the energy consumption, increase the die service life, etc. (see col. 1, lines 10-51). It would have been obvious to use the

semi-solid Mg alloy of Bradley et al. as a casting material in the process of making heat exchanger of Miki et al. in view of the advantage. With respect to claims 3 and 4, it would have been obvious to obtain the optimal composition and process parameters for forming the fins through routine experimentation.

4. Claims 9-16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,344,477 to Miki et al. and further in view of US 5,040,589 to Bradley et al. as applied to claim 1 above, and further in view of US 3,841,390 to DiBenedetto et al.

DiBenedetto et al. show to continuous cast articles by using a use a continuous casting machine, which consists of two series of die plates, such that to speed up the casting process. It would have been obvious to use the continuous casting machine of DiBenedetto et al. for forming the heat exchanger of Miki et al. in view of the advantage. with respect to claims 11 and 12, it would have been obvious to obtain the optimal composition and process parameters for forming the fins through routine experimentation.

5. Applicant's arguments filed May 29, 2008 have been fully considered but they are not persuasive.

- a. Applicant in page 7, 3<sup>rd</sup> para. of the response stated that neither Miki nor Bradley disclose the feature of "a substantially continuous void free interface between a core object and a metal slurry" as in claim1. However, When the semi-solid magnesium alloy of Bradley is used in the process of Miki for making the heat exchanger, it is expected to have a substantially void free interface between the core and the metal slurry since the semi-solid slurry of Bradley is

also injected into the mold cavity of Miki to unite the core preform. The modified process is the same process as the instant application. The result of that process will be the same as that of instant application.

b. Applicant in page 8, 1<sup>st</sup> para. of the response stated that Miki provides insufficient motivation to use a thixotropic metal because the higher viscosity metal would have less flowability in forming intimate contact to create the interface with the object. However, it is a known practice to inject semi-solid slurry into a casting die to unite to a preform object (see, for example, col. 3, lines 18-65, col. 6, lines 28-40 and examples 1-6 of US 5,775,403 to Premkumar et al.) Thus, to use a thixotropic metal in the process of Miki to unite to a preform object is deemed to be obvious to those of ordinary skill in the casting art.

c. Applicant in page 9, 2<sup>nd</sup> para. of the response stated that Bradley et al. do not suggest to use AZ91D magnesium in their process. However, they do disclose that various modified composition of alloy AZ91 also were used in their process (see col. 12, lines 26-27, col. 13, lines 42-46). Also, it is a known practice to use thixo-molding method for casting AZ91 series of magnesium alloy (see col. 5, 1st para. of US 6,460,602 to Kubota et al.) Thus, to use AZ91D in Bradley et al. is deemed to be obvious to those of ordinary skill in the casting art.

d. Applicant in page 10, 3rd para. of the response stated that vulcanized rubber belts of DiBenedetto are not suitable to be used at the pressure and temperature of Miki and Bradley et al. However, DiBenedetto does disclose that it is conventional to use continuous casting machine having metallic belt-mold

sections for casting metallic article (see col.1, lines 5-16 of DiBenedetto). The metallic belt-mold sections continuous casting machine of DiBenedetto is the same as that of instant application.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuang Y. Lin whose telephone number is 571-272-1179. The examiner can normally be reached on Monday-Friday, 10:00-6:30,.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica L. Ward can be reached on 571-272-1223. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1793

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kuang Lin/  
Primary Examiner  
AU 1793

7-9-08